

3854. Misbranding of Dexedrine Sulfate tablets, sulfadiazine tablets, apiol and ergot capsules, and Seconal Sodium capsules. U. S. v. Woodard Roberts Mitchell. Plea of not guilty. Tried to the court. Verdict of guilty. Fine, \$175. (F. D. C. No. 30029. Sample Nos. 70840-K, 70841-K, 70843-K, 70844-K, 70846-K, 70849-K, 70850-K.)

INFORMATION FILED: February 15, 1951, Western District of Oklahoma, against Woodard Roberts Mitchell, pharmacist and manager of K & W Drug, Oklahoma City, Okla.

ALLEGED VIOLATION: On or about April 22, 23, 24, 26, and 28, and May 1, 1950, while a number of *Dexedrine Sulfate tablets, sulfadiazine tablets, apiol and ergot capsules, and Seconal Sodium capsules* were being held for sale at K & W Drug after shipment in interstate commerce, Woodard Roberts Mitchell caused quantities of such drugs to be repacked and sold without a physician's prescription, which acts resulted in the repackaged drugs being misbranded.

NATURE OF CHARGE: Misbranding, Section 502 (b) (1), the repackaged *Dexedrine Sulfate tablets, sulfadiazine tablets, and apiol and ergot capsules* failed to bear labels containing the name and place of business of the manufacturer, packer, or distributor; and, Section 502 (b) (2), all of the repackaged drugs failed to bear labels containing statements of the quantity of the contents.

Further misbranding, Section 502 (d), the repackaged *Seconal Sodium capsules* contained a chemical derivative of barbituric acid, which derivative has been found to be, and by regulations designated as, habit forming; and the label of such capsules failed to bear the name, and quantity or proportion of such derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

Further misbranding, Section 502 (e) (1), the repackaged *Dexedrine Sulfate tablets and sulfadiazine tablets* failed to bear labels containing the common or usual name of the drugs; Section 502 (e) (2), the repackaged *apiol and ergot capsules* failed to bear a label containing the common or usual name of each active ingredient of the drug; Section 502 (f) (1), the repackaged *Dexedrine Sulfate tablets, apiol and ergot capsules, and Seconal Sodium capsules* failed to bear labeling containing adequate directions for use; and, Section 502 (f) (2), the repackaged *sulfadiazine tablets* failed to bear labeling containing adequate warnings against use in those pathological conditions where their use may be dangerous to health, and against unsafe dosage and methods and duration of administration.

DISPOSITION: A motion to quash the information on the ground that the information was duplicitous and a motion for a bill of particulars were filed by the defendant on March 23, 1951. On September 27, 1951, the court overruled these motions, and the case came on for trial on January 23, 1952, upon the defendant's plea of not guilty. The trial was concluded on the same day, with the return by the court of a verdict of guilty and the imposition of a fine of \$175.